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United States Department of Agriculture

PRODUCTION AND MARKETING ADMINISTRATION

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 169¹REGULATIONS GOVERNING THE GRADING, INSPECTION,
SAMPLING, GRADE LABELING, AND SUPERVISION OF
PACKAGING OF BUTTER, CHEESE, AND OTHER MANUFACTURED OR PROCESSED DAIRY PRODUCTS

(Title 7, Ch. I, Pt. 58, secs. 58.1–58.64 of the Code of Federal Regulations)

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¹ This publication supersedes in part S. R. A.—A. M. S. 137 (revised).

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AUTHORITY: §§ 58.1 to 58.64 issued under sec. 205, 60 Stat. 1090, Pub. Law 758, 81st Cong.; 7 U. S. C. 1624.

DEFINITIONS

§ 58.1 *Meaning of words.* Words in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

§ 58.2 *Terms defined.* For the purpose of the regulations in this part, unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) *Act.* "Act" means the following provisions of the Department of Agriculture Appropriation Act of 1951 (Pub. Law 759, 81st Cong.), or any future act of Congress conferring like authority:

* * * For enabling the Secretary to investigate and certify, in one or more jurisdictions, to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits, and vegetables, whether raw, dried, canned, or otherwise processed, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered * * *

(b) *Administration.* "Administration" means the Production and Marketing Administration of the Department.

(c) *Administrator.* "Administrator" means the Administrator of the Production and Marketing Administration of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated by the Administrator, the authority to act in his stead.

(d) *Applicant.* "Applicant" means an interested party who requests any grading service, appeal grading, or regrading with respect to any product.

(e) *Class.* "Class" means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind, species, or method of processing.

(f) *Condition.* "Condition" means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

(g) *Department.* "Department" means the United States Department of Agriculture.

(h) *Grader.* "Grader" means any employee of the Department authorized

by the Secretary, or any other person to whom a license has been issued by the Secretary, to investigate and certify, in accordance with the act and this part, to shippers of products and other interested parties the class, quality, and condition of such products.

(i) *Grading.* "Grading" means (1) the act of determining, according to the regulations, the class, quality, or condition of any product by examining each unit thereof or a representative sample drawn by a grader or sampler; (2) the act of issuing a grading certificate; or (3) the act of identifying, when requested by the applicant, any product by means of official identification pursuant to the act and this part.

(j) *Grading certificate.* "Grading certificate" means a statement, either written or printed, issued by a grader, pursuant to the act and this part, relative to the class, quality, and condition of products.

(k) *Grading service.* "Grading service" or "continuous inspection" means (1) any grading, in accordance with the act and the regulations, of any product; (2) continuous supervision, including quality control, in any official plant, of the preparation or packaging of any product; (3) any regrading of any previously graded product; or (4) any appeal grading of any previously graded product.

(l) *Inspector.* "Inspector" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to inspect and certify the condition of products.

(m) *Interested party.* "Interested party" means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

(n) *Office of grading.* "Office of grading" means the office of any grader, sampler, or inspector.

(o) *Official identification.* "Official identification" means the symbol represented by a stamp, label, seal, mark, or other device approved by the Administrator, affixed to any product or to any container thereof, stating that the product was graded or inspected and indicating the class, quality, grade, or condition of such product.

(p) *Official plant.* "Official plant" means one or more buildings, or parts thereof, comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for operation under inspection

or grading service and in which inspection or grading is carried on in accordance with the regulations in this part.

(q) *Person*. "Person" means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

(r) *Product or products*. "Product" or "products" means butter, cheese (whether natural or processed), milk, cream, milk products (whether dried, evaporated, or condensed), and such other perishable farm products as the Secretary may hereafter designate. Such term shall also include any food product which is prepared or manufactured from any of the aforesaid products if such products constitute at least 50 percent, by weight, of all the ingredients used in the preparation or manufacture of such food product.

(s) *Quality*. "Quality" means the inherent properties of any product which determine its relative degree of excellence.

(t) *Regulations*. "Regulations" means the provisions of this part.

(u) *Sampler*. "Sampler" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to draw samples of products for grading by a grader or for lot analysis under the act and this part.

(v) *Sampling*. "Sampling" means the act of taking samples of any product for grading.

(w) *Sampling report*. "Sampling report" means a statement, either written or printed, issued by a sampler, identifying samples taken by him for grading.

(x) *Secretary*. "Secretary" means the Secretary of the Department or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in his stead.

(y) *Supervisor of packaging*. "Supervisor of packaging" means any employee of the Department authorized by the Secretary, or any other person to whom a license has been issued by the Secretary, to supervise the packaging and grade labeling of products.

ADMINISTRATION

§ 58.3 *Authority*. The administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement and administration of the provisions of the act and this part.

GRADING SERVICE

§ 58.4 *Kind of service*. Any grading service performed in accordance with this part may be for class, quality, and condition, or any combination thereof, and such service shall be subject to supervision at any time by the Administrator.

§ 58.5 *Where grading service is offered*. Any product may be graded, inspected, and sampled wherever a grader, sampler, or inspector is available and the facilities and the conditions are satisfactory for the conduct of the grading service.

§ 58.6 *Filing of application*. An application for grading, inspection, or sampling of a specified lot of any product shall be regarded as filed only when made pursuant to this part.

APPLICATION FOR GRADING, INSPECTION AND SAMPLING

§ 58.7 *Who may obtain grading, inspection and sampling service*. An application for grading, inspection, or sampling service may be made by any interested person, including, but not being limited to, the United States, any State, county, municipality, or common carrier, and any authorized agent of the foregoing.

§ 58.8 *How to make application*. An application for any grading service may be made in any office of grading, or with any grader, sampler, or inspector at or nearest the place where the service is desired. Such application for service may be made orally (in person or by telephone), in writing, or by telegraph. If an application for grading service is made orally, the office of grading, grader, sampler, or inspector with whom such application is made, or the Administrator, may require that the application be confirmed in writing.

§ 58.9 *Form of application*. Each application for grading, inspecting, or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded, inspected, or sampled.

§ 58.10 *Granting of application*. An application for continuous inspection may be approved only with respect to an official plant.

§ 58.11 *When application may be rejected*. Any application for grading service or sampling service may be rejected by the Administrator (a) when-

ever the product involved is owned by, or located on the premises of, a person currently denied the benefits of the act, or (b) for noncompliance by the applicant with the act or the regulations; and each such applicant shall be notified immediately of the reasons for the rejection.

§ 58.12 *When application may be withdrawn.* An application for grading service may be withdrawn by the applicant at any time before the service is performed upon payment, by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 58.13 *Authority of applicant.* Proof of the authority of any person applying for any grading service may be required in the discretion of the Administrator.

§ 58.14 *Accessibility and condition of product.* Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, or condition of such product.

§ 58.15 *Disposition of graded product.* Any product, or sample thereof, which has been graded may be returned to the applicant at his request and at his expense if such request was made at the time of application for the grading service. In the event the aforesaid request was not made at the time of application for the grading service, the product or sample may be disposed of in such manner as the Administrator may approve.

§ 58.16 *Basis of grading service.* Products shall be graded in accordance with such standards, methods; and instructions as may be issued, or approved, by the Administrator. The supervision of packaging graded products shall be in accordance with such instructions as may be issued, or approved, by the Administrator.

§ 58.17 *Order of service.* Grading service shall be performed, insofar as practicable, in the order in which applications therefor are made except that precedence may be given to any such applications which are made by the United States (including, but not being limited to, any instrumentality or agency thereof) and to any application for an appeal grading.

§ 58.18 *Grading certificates and sampling report forms.* Grading certificates (including appeal grading certificates and regrading certificates) and sampling report forms shall be issued on forms approved by the Administrator.

§ 58.19 *Grading certificate issuance.* Each grader and each inspector shall issue a grading certificate covering each product graded; but in no case shall a grader or inspector sign any certificate covering any product not graded by him.

§ 58.20 *Disposition of grading certificates.* The original of any grading certificate, issued pursuant to § 58.19, and not to exceed four copies thereof, shall, immediately upon issuance, be delivered or mailed to the applicant or person designated by him. One copy shall be filed in the office of grading serving the area in which the grading service was performed, and all other copies shall be filed in such manner as the Administrator may approve. Additional copies of any such certificate may be supplied to any interested party as provided in § 58.41.

§ 58.21 *Advance information.* Upon request of an applicant, all or part of the contents of any grading certificate issued to such applicant may be telephoned or telegraphed to him, or to any person designated by him, at applicant's expense.

APPEAL GRADING AND REGRADING

§ 58.22 *When appeal grading may be requested.* An application for an appeal grading may be made by any interested party who is dissatisfied with any determination stated in any grading certificate, if the identity of the samples, or the product, has not been lost; and such application for an appeal grading shall be made within two days following the day on which the grading was performed. Upon approval by the Administrator, the time within which an application for an appeal grading may be made may be extended.

§ 58.23 *How to obtain appeal grading.* Appeal grading may be obtained by filing a request therefor, (a) with the Administrator, (b) with the grader or inspector who issued the grading certificate with respect to which the appeal grading is requested, (c) with the immediate superior of such grader or inspector, or (d) with the officer in charge of any office of grading. The application for appeal grading shall state the reasons therefor and may be accompanied by a copy of the aforesaid grading certificate or any other information the applicant may have secured regarding the product, at the time of grading, from which the appeal is requested. Such application may be made orally (in person or by telephone), in writing, or by telegraph. If made orally, written confirmation may be required.

§ 58.24 *Record of filing time.* A record showing the date and hour when each such application for appeal grading is received shall be maintained in such manner as the Administrator may prescribe.

§ 58.25 *When an application for an appeal grading may be refused.* If it appears to the Administrator that the reasons for an appeal grading are frivolous or not substantial, or that the quality or condition of the products has undergone a material change since the grading from which the appeal is made, or the identical products graded cannot be made accessible for regrading, or the act, or this part has not been complied with, the Administrator may refuse the applicant's request for the appeal grading; and such applicant shall be promptly notified of the reason for such refusal.

§ 58.26 *When an application for an appeal grading may be withdrawn.* An application for appeal grading may be withdrawn by the applicant at any time before the appeal grading is made upon payment, by the applicant, of all expenses incurred by the Administration in connection with such application.

§ 58.27 *Order in which appeal gradings are performed.* Appeal gradings shall be performed, insofar as practicable, in the order in which applications therefor are received; and any such application may be given precedence pursuant to § 58.17.

§ 58.28 *Who shall make appeal gradings.* An appeal grading of any graded product shall be made by any grader (other than the one from whose grading the appeal is made) designated for this purpose by the Administrator; and, whenever practical, such appeal grading shall be conducted jointly by two such graders.

§ 58.29 *Appeal grading certificate.* Immediately after an appeal grading has been completed, an appeal grading certificate shall be issued showing the results of such appeal grading. Such certificate shall thereupon supersede the grading certificate for the product involved and such supersedure shall be effective as of the time of issuance of the grading certificate with respect to which the appeal is made. Each appeal grading certificate shall clearly set forth the number and the date of the grading certificate which it supersedes. The provisions of § 58.18 to § 58.21, both inclusive, shall, whenever applicable, also apply to appeal grading certificates except that copies of such appeal grading certificates

shall be furnished each interested party of record.

§ 58.30 *Regrading of a graded product; application for regrading of a graded product—(a) Regrading of a graded product.* Whenever the immediate superior of a grader has evidence that such grader incorrectly graded a product, such superior shall immediately make a regrading of the product.

(b) *Application for regrading of a graded product.* An application for the regrading of any previously graded product may be made at any time by any interested party; and such application shall clearly indicate the reasons for requesting the regrading. The provisions of the regulations relative to grading service shall apply to regrading service.

§ 58.31 *Regrading certificate.* Immediately after a regrading has been completed, a regrading certificate shall be issued showing the results of such regrading; and such certificate shall thereupon supersede, as of the time of issuance of the regrading certificate, the grading certificate previously issued for the product involved. Each regrading certificate shall clearly set forth the number and date of the grading certificate which it supersedes. The provisions of § 58.18 to § 58.21, both inclusive, shall, whenever applicable, also apply to regrading certificates except that copies of such regrading certificates shall be furnished each interested party of record.

§ 58.32 *Superseded certificates.* When any grading certificate is superseded in accordance with this part, such certificate shall become null and void and, after the effective time of the supersedure, shall no longer represent the class, quality, or condition of the product described therein. If the original and all copies of such superseded certificate are not delivered to the person issuing the regrading or appeal grading certificate, he shall notify such persons as he considers necessary to prevent fraudulent use of the superseded certificate.

AUTHORIZATION AND LICENSING OF GRADERS, INSPECTORS, SAMPLERS, AND SUPERVISORS OF PACKAGING

§ 58.33 *Who may be authorized or licensed.* Any person possessing proper qualifications, as determined by an examination for competency, held at such time and in such manner as may be prescribed by the Administrator, may, (a) if an employee of the Department, be authorized by the Secretary, or (b) if not an employee, be licensed by the Secretary, as a grader, inspector, sampler, or

supervisor of packaging for the performance of the applicable duties. Each prospective licensee, other than a State employee, shall, prior to the issuance of the license, procure and deliver to the Administration a surety bond, issued by such surety as may be approved by the Administrator, in the amount of \$1,000 for the proper performance of the duties of such person as a licensee under the act and this part. Each authorization, and each license, issued by the Secretary shall be countersigned by the Administrator.

§ 58.34 Suspension or revocation of authority or license. Pending final action by the Secretary, the Administrator may, whenever he deems such action necessary, suspend the authority or license issued to any person pursuant to this part, by giving written notice of such suspension to such person, accompanied by a statement of the reasons therefor. Within seven days after receipt of the aforesaid notice, such person may file a written appeal with the Secretary, supported by any argument or evidence such person may wish to offer as to why his authority or license should not be suspended or revoked. After the expiration of the aforesaid seven day period and consideration of such argument and evidence, the Secretary will take such action as he deems appropriate with respect to such suspension or revocation.

§ 58.35 Cancellation of authority or license. Upon termination of any person's services as a grader, inspector, sampler, or supervisor of packaging, he shall surrender the authority or license, issued to him pursuant to this part, for cancellation by the Administrator.

§ 58.36 Surrender of authority or license. Each authority, and each license, that is suspended or revoked, or has expired, shall be surrendered by the holder thereof to his immediate superior.

FEES AND CHARGES

§ 58.37 Payment of fees and charges. (a) Fees and charges for any grading service shall be paid by the interested party, making the application for such grading service, in accordance with the applicable provisions of this section and § 58.38 to § 58.48, both inclusive; and, if so required by the grader, inspector, or sampler, such fees and charges shall be paid in advance.

(b) Fees and charges for any grading service performed by any grader, inspector, or sampler who is a salaried employee of the Department, shall, unless otherwise required pursuant to paragraph (c) of this section, be paid by the

interested party making application for such grading service by check, draft, or money order payable to the Treasurer of the United States and remitted promptly to the Administration.

(c) Fees and charges for any grading service under a cooperative agreement with any State or person shall be paid in accordance with the terms of such cooperative agreement by the interested party making application for any such grading service.

§ 58.38 On a fee basis. (a) Unless otherwise provided herein, the fees to be charged and collected for any service (other than for an appeal grading) performed, in accordance with this part, on a fee basis shall be based on the applicable rates specified in § 58.43 to § 58.46, both inclusive.

(b) In the event the aforesaid applicable rates are deemed by the Administrator to be inadequate fully to reimburse the Administration for all costs and other items paid or incurred by the Administration in connection with such service, the fees for such service shall not be based on the rates specified in § 58.43 to § 58.46, both inclusive, but shall be based on the time required to perform such service and the travel of each grader, inspector, sampler, and supervisor of packaging at the rate of \$3.60 per hour for the time actually required.

(c) If an applicant requests that grading service be performed (1) on a holiday, he may be charged a rate double the rate otherwise applicable, and (2) on a non-work day, he may be charged a rate one and one-half times the otherwise applicable rate.

§ 58.39 Fees for grading samples. The fee to be charged for the grading of each lot of samples of any product shall be based on the actual time required to perform the service and shall be at the rate of \$3.60 per hour, with a minimum charge of \$1.80 for each such lot of samples.

§ 58.40 Fees for appeal grading. The fees to be charged for any appeal grading shall be double the fees specified in the grading certificate from which the appeal is taken: *Provided*, That the fee for any appeal grading requested by the United States, or any agency or instrumentality thereof, shall be the same as set forth in the grading certificate from which the appeal is taken. If the result of any appeal grading discloses that a material error was made in the grading appealed from, no fee shall be required.

§ 58.41 Fees for additional copies of grading certificates. Additional copies

of any grading certificates, other than those provided for in § 58.20, may be supplied to any interested party upon payment of a fee of \$1.50 for each set of five, or fewer copies.

§ 58.42 *Traveling expenses and other charges.* Charges may be made to cover the cost of traveling and other expenses incurred by the Administration in connection with the performance of any grading service.

§ 58.43 *Butter and cheese grading fees.* For each grading or regrading of any lot of butter, cheddar cheese, or swiss cheese, the following fees, on the basis of the net weight of such lot or the actual number of churnings of butter, vats of cheddar cheese, or wheels of swiss cheese comprising such lot, shall be applicable:

(a) When all the packages in any such lot are not individually identified by churning of butter or vat of cheddar cheese, the following fees shall be effective:

For 500 pounds or less.....	\$1.80
For 501 to 1,500 pounds, inclusive....	2.70
For 1,501 to 3,000 pounds, inclusive..	3.60
For 3,001 to 6,000 pounds, inclusive...	4.50
For 6,001 to 10,000 pounds, inclusive..	6.50
For 10,001 to 15,000 pounds, inclusive	8.50
For 15,001 to 20,000 pounds, inclusive	10.50
For each additional 10,000 pounds, or fraction thereof, in excess of 20,000 pounds.....	2.50

(b) When all the packages in any such lot are individually identified by churning of butter or vat of cheddar cheese, the following fees shall be effective:

For 5 or less churnings or vats (total weight less than 18,000 pounds).....	\$2.00
For each additional churning or vat in excess of 5, an additional charge of.....	.30
For any lot of butter or cheddar cheese weighing at least 18,000 pounds, the minimum charge shall be.....	6.00

(c) When all the wheels of swiss cheese are individually identified by kettle of swiss cheese, the following fees shall be effective:

For 5 or less wheels.....	\$2.00
For each additional wheel.....	.20

§ 58.44 *Milk sampling fees.* (a) For each sampling of any lot of dry milk, the following fees shall be applicable:

For 1,500 pounds or less.....	\$1.75
For 1,501 to 3,000 pounds, inclusive....	2.50
For 3,001 to 6,000 pounds, inclusive....	3.25
For 6,001 to 10,000 pounds, inclusive...	4.00

For each additional 10,000 pounds, or fraction thereof, in excess of 10,000 pounds..... 2.00

(b) For each lot of evaporated or condensed milk, the following fees shall be applicable:

For 50 packages or less.....	\$1.75
For 51 to 200 packages, inclusive.....	2.50
For 201 to 400 packages, inclusive.....	3.25
For 401 to 600 packages, inclusive.....	4.00
For each additional 500 packages, or fraction thereof, in excess of 600 packages.....	1.00

§ 58.45 *Fees for laboratory analyses.* For each of the following laboratory analyses, the fee referable thereto shall be applicable except as otherwise provided in paragraph (i) of this section.

(a) *Dry milk.*

Scorched particles.....	\$0.75
Moisture.....	1.50
Fat.....	2.00
Solubility.....	.50
Bacteriological plate count.....	1.00
Titrate acidity.....	.50
Flavor, color.....	.50
Alkalinity of ash.....	2.00
Whey protein test, single sample.....	1.50
Whey protein test (for each additional sample in the same shipment).....	.75

(b) *Dry whey.*

Sediment.....	\$0.75
Moisture.....	1.50
Fat.....	2.00
Bacteriological plate count.....	1.00
E. coli count.....	1.00
Total ash.....	1.50
Alkalinity of ash.....	2.00
Protein.....	2.50
Flavor, color.....	.50

(c) *Evaporated milk.*

Solids.....	\$1.50
Fat.....	2.00
Flavor, color, body.....	.50
Net weight.....	.50

(d) *Sweetened condensed milk.*

Solids.....	\$1.50
Fat.....	2.00
Sugar.....	3.00
Sediment.....	.75
Bacteriological plate count.....	1.00
Yeast and mold count.....	1.00
E. coli count.....	1.00
Net weight.....	.50
Flavor, color, body.....	.50

(e) *Natural cheese.*

Complete moisture test in duplicate...	\$4.00
Fat.....	2.00

(f) *Process cheese.*

Moisture.....	\$2.00
Fat.....	2.00
Melting test.....	.50

(g) *Butter oil (milk fat).*

Moisture.....	\$1.50
Fat.....	2.00

(h) *Butter.*

Moisture, salt, and curd-----	\$1.50
Fat-----	2.00

(i) *Bacteriological analyses and other specified determinations with respect to individual tests for one factor.*

Bacteriological plate count-----	\$1.50
Bacteriological direct count-----	1.50
E. Coli count-----	1.80
Yeast and mold count-----	1.80
Sediment-----	1.00
pH-----	.75
Flavor, color-----	1.00

§ 58.46 *Additional charges.* With respect to any grading service performed in a freight or express car or any other place where the entire lot of the product is not readily accessible to the grader, inspector or sampler, if the time required for the performance of such service is greater than would otherwise be required if the entire lot were readily accessible, as aforesaid, a fee of \$4.00 shall be charged in addition to the applicable rates specified in § 58.43 to § 58.45, both inclusive.

§ 58.47 *On a contract basis.* Fees to be charged and collected for any service, other than for an appeal grading, on a contract basis, shall be such as are provided in such contract. The fees to be charged for any appeal grading shall be as provided in § 58.38 to § 58.45, both inclusive.

§ 58.48 *Fees for grading service performed under cooperative agreement.* The fees to be charged and collected for any service performed under cooperative agreement shall be those provided for by such agreement.

MARKING, BRANDING, AND IDENTIFYING PRODUCT

§ 58.49 *Authority to use official identification.* Whenever the Administrator determines that the granting of authority to any person to package any product, graded pursuant to this part, and to use official identification, pursuant to § 58.49 to § 58.57, both inclusive, will not be inconsistent with the act and this part, he may authorize such use of official identification. Any application for such authority shall be submitted to the Administrator in such form as he may require.

§ 58.50 *Approval of official identification.* Any grade label, inspection mark, or packaging material which is to be used as official identification shall be used only in such manner as the Administrator may prescribe; and such label, inspection mark, and packaging

material shall be of such form and contain such information as the Administrator may require. No grade label, inspection mark, or packaging material may be used in the identification of any graded or inspected product unless finished copies or samples of such grade label, inspection mark, and packaging material have been approved by the Administrator.

§ 58.51 *Information required on official identification label.* Each grade or inspection label which is to be used as official identification shall conspicuously indicate the U. S. grade of the product it identifies and appropriate terminology if manufactured or processed under continuous inspection. It shall also include the appropriate phrase: "Officially graded," "Officially inspected," "Federal-State graded," or "Government graded." When required by the Administrator, the grade or inspection label shall also include all or any portion of the information set forth in paragraphs (a) and (b) of this section.

(a) The grade identification label on butter packaging material shall be stamped or perforated with the date of grading and the number of the grading certificate issued on the product.

(b) The grade or inspection label on packaging material for dairy products other than butter shall be stamped or perforated with a code number to indicate lot and date packed.

§ 58.52 *Time limit for packaging graded butter with grade identification labels.* Any lot of butter which is graded pursuant to this part may be packaged only within seven days immediately following the date of grading.

§ 58.53 *Supervisor of packaging required.* The official identification of any graded or inspected product, as provided in § 58.50 to 58.57, both inclusive, shall be done only under the supervision of a grader, inspector, or supervisor of packaging. The authority to use grade or inspection identification labels may be granted by the Administrator only to applicants who utilize the services of a supervisor of packaging in accordance with this part.

PREREQUISITES TO PACKAGING PRODUCTS WITH GRADE IDENTIFICATION LABELS

§ 58.54 *Packing and packaging room and equipment shall be clean and sanitary.* Each applicant who is granted the authority to package any product with a grade identification label and who operates, for such purpose, a printing and packaging room, shall maintain the

room and the equipment therein in a clean and sanitary condition and, in addition, in accordance with the instructions of the Administrator.

§ 58.55 *Facilities for incubating butter samples required.* Each applicant granted the authority, as aforesaid, to package graded butter with grade identification labels shall provide and maintain a cabinet of suitable construction, equipped with temperature control, for the purpose of incubating samples of graded butter. Suitable facilities for the purpose of cleaning and sterilizing the equipment used in performing such incubation also shall be provided by such applicant.

§ 58.56 *Incubation of butter samples to determine keeping quality.* Samples of butter may be taken by a grader, pursuant to the instructions of the Administrator, from any lot of butter which is submitted for grading and packaging with grade identification labels, for the purpose of determining, by subsequent examination, whether such butter possesses satisfactory keeping quality, as determined by the grader in accordance with such standards as the Administrator may prescribe.

§ 58.57 *Butter of known unsatisfactory keeping quality shall not be eligible for packaging with grade identification labels.* Any butter produced in a creamery whose production of butter, within 30 days prior to current grading, has shown unsatisfactory keeping quality, as evidenced by the keeping quality test pursuant to § 58.56, shall not be packaged with any grade identification label until it is determined, by the grader, that such butter possesses satisfactory keeping quality.

MISCELLANEOUS

§ 58.58 *Fraud or misrepresentation.* Any wilful misrepresentation or deceptive or fraudulent practice found to be made or committed by any person in connection with:

(a) The making or filing of any application for any grading service, appeal, or regrading service;

(b) The use of any grading certificate, issued pursuant to this part, or the use of any official identification;

(c) The use of the words "Government graded," "Officially graded," "Federal-State graded," or words of similar import in the labeling or advertising of any product without stating in conjunction therewith the official U. S. grade of the product;

(d) The use of any of the aforesaid words or an official identification in the labeling or advertising of any product that has not been graded pursuant to this part;

(e) The use of a facsimile form which simulates in whole or in part any official identification for the purpose of purporting to evidence the U. S. grade of any product; or

(f) Any wilful violation of the regulations or the supplementary rules and instructions issued by the Administrator; may be deemed sufficient cause for debarring such person from any or all benefits of the act after opportunity for hearing has been accorded him; and pending investigation and hearing the Administrator may direct, without hearing, that such person shall be denied the benefits of the act.

§ 58.59 *Fraudulent grade labeling practices.* The Administration will not render grading service for any person found or discovered to be wilfully using in the labeling of any product any words, numerals, letters, or facsimile form which simulates in whole or in part any identification purporting to be a grade when such product does not comply with any recognized standards in general use for such grade, and such activity may be deemed sufficient cause for debarring such person from any or all benefits of the act after opportunity for hearing has been accorded him; and pending investigation and hearing the Administrator may direct, without hearing, that such person shall be denied the benefits of the act.

§ 58.60 *Political activity.* All graders, inspectors, and samplers are forbidden during the period of their respective appointments or licenses, to take an active part in political management or in political campaigns. Political activities in city, county, state, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including, but not being limited to, temporary and co-operative employees and employees on leave of absence with or without pay. Wilful violation of this section will constitute grounds for dismissal in the case of appointees and revocation of licenses in the case of licensees.

§ 58.61 *Report of violations.* Each grader, inspector, sampler, and supervisor of packaging shall report, in the manner prescribed by the Administrator, all violations and noncompliances under the act and this part of which such grader,

inspector, sampler, or supervisor of packaging has knowledge.

§ 58.62 *Interfering with a grader, inspector, or sampler.* Any further benefits of the act may be denied any applicant who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, assault, or in any other manner, a grader, inspector, or sampler in the performance of his duties.

§ 58.63 *Publications.* Publications under the act and this part shall be made in the FEDERAL REGISTER, the Service and Regulatory Announcements of the Department, and such other media as the Administrator may approve for the purpose.

§ 58.64 *Identification.* Each grader, inspector, sampler, and supervisor of packaging shall have in his possession at all times, and present upon request, while on duty, the means of identification furnished by the Department to such person.

Issued at Washington, D. C., this 29th day of June 1951.

[SEAL]

CHARLES F. BRANNAN,
Secretary of Agriculture.

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